

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH80263-RIF-23 (03/12)

Short Title: Amend Computer Recycling Provisions.

(Public)

Sponsors: Representative Gibson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND
3 CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT
4 OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 130A-309.91 reads as rewritten:

7 "**§ 130A-309.91. (Effective January 1, 2010) Definitions.**

8 As used in this Part, the following definitions apply:

9 (1) Business entity. – Defined in G.S. 55-1-40(2a).

10 (2) Computer equipment. – Any desktop ~~central processing unit, any laptop~~
11 computer, notebook computer, the monitor or video display unit for a
12 computer system, and the keyboard, mice, and other peripheral equipment.
13 Computer equipment does not include a printing device such as a printer, a
14 scanner, a combination print-scanner-fax machine, or other device designed
15 to produce hard paper copies from a computer; an automated typewriter,
16 professional workstation, servers, ICI device, ICI system, mobile telephone,
17 portable handheld calculator, portable digital assistant (PDA), MP3 player,
18 or other similar device; an automobile; a television; a household appliance; a
19 large piece of commercial or industrial equipment, such as commercial
20 medical equipment, that contains a cathode ray tube, a cathode ray tube
21 device, a flat panel display, or similar video display device that is contained
22 within, and is not separate from, the larger piece of equipment, or other
23 medical devices as that term is defined under the federal Food, Drug, and
24 Cosmetic Act.

25 (2a) Computer equipment manufacturer. – A person that manufactures computer
26 equipment sold under its own brand or label; sells or has sold under its own
27 brand or label computer equipment produced by other suppliers; imports or
28 has imported into the United States computer equipment that was
29 manufactured outside of the United States; or owns or has owned a brand
30 that it licenses to another person for use on computer equipment.
31 ~~Manufacturer~~ Computer equipment manufacturer includes a business entity
32 that acquires another business entity that manufactures or has manufactured
33 computer equipment. Computer equipment manufacturer does not include
34 any existing person that manufactures computer equipment that the
35 Department determines is of such a character that the computer equipment



1 would not be used by consumers, unless such a manufacturer also
2 manufactures one or more kinds of computer equipment that are of such a
3 character as to be used by consumers, in which event the person is a
4 computer equipment manufacturer under this subdivision. Computer
5 equipment manufacturer does not include any existing person who both:

- 6 a. Owns and licenses the brand appearing on the computer equipment.
7 b. Has not manufactured or sold the computer equipment.
8 (2b) Covered device. – Computer equipment and televisions. The term does not
9 include a device that is:

- 10 a. Part of a motor vehicle or any component of a motor vehicle
11 assembled by, or for, a vehicle manufacturer or franchised dealer,
12 including replacement parts for use in a motor vehicle.
13 b. (i) Physically a part of or integrated within a larger piece of
14 equipment designed and intended for use in an industrial,
15 governmental, commercial, research and development, or medical
16 setting; (ii) equipment used for diagnostic, monitoring, or other
17 medical products as that term is defined under the Federal Food,
18 Drug, and Cosmetic Act; (iii) equipment used for security, sensing,
19 monitoring, antiterrorism purposes, or emergency services purposes.
20 c. Contained within a household appliance, including, but not limited
21 to, a clothes washer, clothes dryer, refrigerator, refrigerator and
22 freezer, microwave oven, conventional oven or range, dishwasher,
23 room air conditioner, dehumidifier, air purifier, or exercise
24 equipment.

- 25 (2c) Desktop computer. – An electronic, magnetic, optical, electrochemical, or
26 other high-speed data processing device that has all of the following
27 features:

- 28 a. Performs logical, arithmetic, and storage functions for general
29 purpose needs that are met through interaction with a number of
30 software programs contained in the computer.
31 b. Is not designed to exclusively perform a specific type of limited or
32 specialized application.
33 c. Achieves human interface through a stand-alone keyboard,
34 stand-alone monitor or other display unit, and a stand-alone mouse or
35 other pointing device.
36 d. Is designed for a single user.
37 e. Has a main unit that is intended to be persistently located in a single
38 location, often on a desk or on the floor.

- 39 (3) Discarded computer equipment. – Computer equipment that is solid waste.

- 40 (3a) Discarded television. – A television that is solid waste.

- 41 (4) Discarded computer equipment or television collector. – A municipal or
42 county government, nonprofit agency, recycler, or retailer that accepts
43 discarded computer equipment or a television from ~~the public occupants of~~
44 single detached dwelling units and single units in multiple dwelling units for
45 any such occupant who has used a covered device primarily for personal or
46 home business use.

- 47 (5) Recodified as G.S. 130A-309.91(2a).

- 48 (5a) Market share. – A television manufacturer's obligation to recycle discarded
49 televisions. A television manufacturer's market share is the television
50 manufacturer's prior year's sales of televisions as calculated by the
51 Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers'

- 1 prior year's sales for all televisions as calculated by the Department pursuant
2 to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a
3 fraction, or a decimal fraction.
- 4 (5b) Notebook computer. – An electronic, magnetic, optical, electrochemical, or
5 other high-speed data processing device that has all of the following
6 features:
- 7 a. Performs logical, arithmetic, or storage functions for general purpose
8 needs that are met through interaction with a number of software
9 programs contained in the computer.
- 10 b. Is not designed to exclusively perform a specific type of limited or
11 specialized application.
- 12 c. Achieves human interface through a keyboard, video display greater
13 than four inches in size, and mouse or other pointing device, all of
14 which are contained within the construction of the unit that
15 comprises the computer.
- 16 d. Is able to be carried as one unit by an individual.
- 17 e. Is able to use external, internal, or batteries for a power source.
- 18 Notebook computer includes those that have a supplemental stand-alone
19 interface device attached to the notebook computer. Notebook computer
20 does not include a portable handheld calculator, a PDA, or similar
21 specialized device. A notebook computer is sometimes referred to as a
22 laptop computer.
- 23 ~~(6) Orphan discarded computer equipment. — Any discarded computer~~
24 ~~equipment for which a manufacturer cannot be identified or for which the~~
25 ~~manufacturer is no longer in business and has no successor in interest.~~
- 26 (6a) Recover. – The process of reusing or recycling covered devices.
- 27 (6b) Recycle. – The processing, including disassembling, dismantling, and
28 shredding, of covered devices or their components to recover a usable
29 product. Recycle does not include any process that results in the incineration
30 of the product.
- 31 (6c) Recycler. – A person that recycles covered devices.
- 32 (7) Retailer. – A person that sells computer equipment or televisions in the State
33 to a consumer. Retailer includes a ~~manufacturer of computer equipment or~~
34 ~~televisions~~ computer equipment manufacturer or a television manufacturer
35 that sells directly to a consumer through any means, including transactions
36 conducted through sales outlets, catalogs, the Internet, or any similar
37 electronic means, but does not include a person that sells computer
38 equipment or televisions to a distributor or retailer through a wholesale
39 transaction.
- 40 (8) Television. – Any electronic device that contains a tuner that locks on to a
41 selected carrier frequency and is capable of receiving and displaying of
42 television or video programming via broadcast, cable, or satellite, including,
43 without limitation, any direct view or projection television with a viewable
44 screen of 9 inches or larger whose display technology is based on cathode
45 ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP),
46 liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD),
47 light emitting diode (LED), or similar technology marketed and intended for
48 use by a consumer primarily for personal purposes. The term does not
49 include computer equipment.
- 50 (9) Television manufacturer. – A person that: (i) manufactures for sale in this
51 State a television under a brand that it licenses or owns; (ii) manufactures for

1 sale in this State a television without affixing a brand; (iii) resells into this
2 State a television under a brand it owns or licenses produced by other
3 suppliers, including retail establishments that sell a television under a brand
4 that the retailer owns or licenses; (iv) imports into the United States or
5 exports from the United States a television for sale in this State; (v) sells at
6 retail a television acquired from an importer that is the manufacturer as
7 described in sub-subdivision (iv) of this subdivision, and the retailer elects to
8 register in lieu of the importer as the manufacturer of those products; (vi)
9 manufactures a television for or supplies a television to any person within a
10 distribution network that includes wholesalers or retailers in this State and
11 that benefits from the sale in this State of the television through the
12 distribution network; or (vii) assumes the responsibilities and obligations of
13 a television manufacturer under this Part. In the event the television
14 manufacturer is one that manufactures, sells, or resells under a brand it
15 licenses, the licensor or brand owner of the brand ~~shall not be considered to~~
16 ~~be~~ is not a television manufacturer under (i) or (iii) of this subdivision."

17 **SECTION 2.** G.S. 130A-309.93 reads as rewritten:

18 "**§ 130A-309.93. (For effective dates, see note) Requirements for computer**
19 **manufacturers.**

20 (a) Registration and Fee Required. – Each ~~manufacturer of computer equipment,~~
21 computer equipment manufacturer, before selling or offering for sale computer equipment in
22 North Carolina, shall register with the Department and, at the time of registration, shall pay an
23 initial registration fee of ~~ten thousand three hundred dollars (\$10,000)~~ (\$3,000) to the Department. A
24 computer equipment manufacturer that has registered shall pay an annual renewal registration
25 fee of one thousand dollars (\$1,000) to the Department. The annual renewal registration fee
26 shall be paid each year no later than the first day of the month in which the initial registration
27 fee was paid. The proceeds of these fees shall be credited to the Computer Equipment
28 Management Account. A ~~manufacturer of computer equipment~~ computer equipment
29 manufacturer that sells 1,000 items of computer equipment or less per year is exempt from the
30 requirement to pay the registration fee and the annual renewal fee imposed by this subsection.
31 Neither the Department nor any local government is authorized to impose fees or other charges
32 on computer equipment manufacturers, except as provided in this subsection.

33 (b) Manufacturer Label Required. – A computer equipment manufacturer shall not sell
34 or offer to sell computer equipment in this State unless a visible, permanent label clearly
35 identifying the manufacturer of that device is affixed to the equipment.

36 (c) Computer Equipment Recycling Plan. – Each computer equipment manufacturer ~~of~~
37 ~~computer equipment~~ shall develop and submit to the Department a plan for reuse or recycling
38 of discarded computer equipment in the State produced by the ~~manufacturer~~ computer
39 equipment manufacturer and used and returned by consumers. The manufacturer's
40 responsibility under this Part and its plan under this section are limited to reusing or recycling
41 computer equipment that is discarded by occupants of a single detached dwelling unit or a
42 single unit of a multiple dwelling unit who have used the computer equipment primarily for
43 personal or home business use. The computer equipment manufacturer shall submit a proposed
44 plan to the Department within 120 days of registration as required by subsection (a) of this
45 section. The plan shall:

- 46 (1) Describe any direct take-back program to be implemented by the computer
47 equipment manufacturer, including mail-back programs and collection
48 events.
- 49 (2) Provide that the computer equipment manufacturer will take responsibility
50 for discarded computer equipment it ~~manufactured~~ manufactured that is used
51 and returned by consumers.

- 1 (3) Include a detailed description as to how the computer equipment
2 manufacturer will implement and finance the plan.
- 3 (4) Provide for environmentally sound management practices to transport and
4 recycle discarded computer equipment.
- 5 (5) Describe collection services for consumers that are reasonably convenient
6 and available and designed to meet the needs of consumers in the State. ~~the~~
7 ~~performance measures that will be used by the manufacturer to document~~
8 ~~recovery and recycling rates for discarded computer equipment. The~~
9 ~~calculation of recycling rates shall include the amount of discarded computer~~
10 ~~equipment managed under the manufacturer's program divided by the~~
11 ~~amount of computer equipment sold by the manufacturer in North Carolina.~~
- 12 (6) ~~Describe in detail how the manufacturer will provide for transportation of~~
13 ~~discarded computer equipment at no cost from discarded computer~~
14 ~~equipment collectors.~~
- 15 (7) ~~Describe in detail how the manufacturer will fully cover the costs of~~
16 ~~processing discarded computer equipment received from discarded computer~~
17 ~~equipment collectors.~~
- 18 (8) Include a public education plan on the laws governing the recycling and
19 reuse of discarded computer equipment under this Part and on the methods
20 available to consumers to comply with those requirements.

21 (d) Computer Equipment Recycling Plan Revision. – A computer equipment
22 manufacturer may prepare a revised plan and submit it to the Department at any time as the
23 computer equipment manufacturer considers appropriate in response to changed circumstances
24 or needs. ~~The Department may require a manufacturer to revise or update a plan if the~~
25 ~~Department finds that the plan is inadequate or out of date.~~

26 (e) Payment of Costs for Plan Implementation. – Each computer equipment
27 manufacturer is responsible for all costs associated with the development and implementation
28 of its plan. A computer equipment manufacturer shall not collect a charge from consumers for
29 the management of discarded computer equipment at the time the equipment is
30 ~~discarded.~~ discarded by consumers. A manufacturer is responsible for the costs of collection
31 only from discarded computer equipment collectors with whom that manufacturer has a
32 contractual agreement to assume those costs.

33 (f) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the
34 requirements of this section by participation in a joint recycling plan with other manufacturers.
35 A joint plan shall meet the requirements of subsection (c) of this section.

36 (g) Annual Report. – Each manufacturer shall submit a report to the Department by 1
37 February of each year that includes all of the following for the previous calendar year:

- 38 (1) A description of the collection and recycling services used to recover the
39 manufacturer's products.
- 40 (2) ~~The quantity and type of computer equipment sold by the manufacturer to~~
41 ~~retail consumers in this State.~~
- 42 (3) The quantity and type ~~weight~~ of discarded computer equipment collected by
43 the manufacturer for recovery in this State for the preceding calendar year.
- 44 (4) ~~Any other information requested by the Department.~~

45 (h) Data Security. – Computer equipment manufacturers shall not be liable in any way
46 for data or other information left on a covered device that is collected or recovered."

47 **SECTION 3.** G.S. 130A-309.93A(c) reads as rewritten:

48 "(c) The obligation to recycle televisions shall be allocated to each television
49 manufacturer based on the television manufacturer's market share. A television manufacturer
50 must annually recycle or arrange for the recycling of its market share of televisions pursuant to
51 this section. The manufacturer's obligation to recycle its market share of televisions is limited

1 to televisions that are discarded by occupants of a single detached dwelling unit or a single unit
2 of a multiple dwelling unit who have used the televisions primarily for personal or home
3 business use."

4 **SECTION 4** G.S. 130A-309.93A is amended by adding a new subsection to read:

5 "(h) Data Security. – Television manufacturers shall not be liable in any way for data or
6 other information left on a covered device that is collected or recovered."

7 **SECTION 5.** G.S. 130A-309.93B is amended by adding a new subsection to read:

8 "(d) A retailer shall not be liable in any way for data or other information left on a
9 covered device that is collected or recovered."

10 **SECTION 6.** G.S. 130A-309.94 reads as rewritten:

11 **"§ 130A-309.94. Requirements for discarded computer equipment and television**
12 **collectors.**

13 (a) Each discarded computer equipment and television collector shall ensure that
14 discarded computer equipment and televisions received by the collector are properly stored,
15 and either held for pickup by a manufacturer or delivered to a facility designated by a
16 manufacturer.

17 (b) A discarded computer equipment and television collector shall not be liable in any
18 way for data or other information left on a covered device that is collected or recovered."

19 **SECTION 7.** G.S. 147-33.104 reads as rewritten:

20 **"§ 147-33.104. (Effective July 1, 2010, until January 1, 2011) Purchase by State agencies**
21 **and governmental entities of certain computer equipment prohibited.**

22 (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

23 (b) No State agency, political subdivision of the State, or other public body shall
24 ~~purchase computer equipment, enter into any contract with a computer equipment manufacturer,~~
25 ~~as defined in G.S. 130A-309.91, from any manufacturer determined not to be that the Secretary~~
26 ~~determines is not in compliance with the requirements of G.S. 130A-309.93 or with a television~~
27 ~~manufacturer, as defined in G.S. 130A-309.91, that the Secretary determines is not in~~
28 ~~compliance with the requirements of G.S. 130A-309.93A as determined from the list provided~~
29 ~~by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1).~~
30 The Secretary shall issue written findings upon a determination of noncompliance. A
31 determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter
32 150B of the General Statutes.

33 (c) The Office of Information Technology Services shall make the list available to
34 political subdivisions of the State and other public bodies. A computer equipment manufacturer
35 that is not in compliance with the requirements of G.S. 130A-309.93 and a television
36 manufacturer that is not in compliance with the requirements of G.S. 130A-309.93A shall not
37 sell or offer for sale computer equipment to be awarded a contract by the State, a political
38 subdivision of the State, or other public body.

39 (d) In considering bids for any State contract by any computer equipment manufacturer
40 or any television manufacturer, as defined in G.S. 130A-309.91, the State agency, political
41 subdivision of the State, or other public body shall, in addition to any other preferences
42 provided elsewhere under State law, give preference to a computer equipment manufacturer
43 and a television manufacturer that has a program to recover other manufacturers' computer and
44 television equipment, including, but not limited to, collection events, recycling grants, and
45 manufacturer initiatives to take back any brand of computer equipment or television equipment
46 with the purchase of a similar product."

47 **SECTION 8.** This act is effective when it becomes law.